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FISCAL IMPACT REPORT



SPONSOR: HAFC DATE TYPED: 02/12/02 HB CS 417 & 225/HAFCS/aHFI#1

SHORT TITLE: Pecos River Water Rights SB _____

ANALYST: Chabot

SOURCES OF INFORMATION

LFC Files
New Mexico Environment Department
Office of the State Engineer (OSE)

SUMMARY

Synopsis of HFI#1 Amendment

This amendment strikes "at the original purchase price" on page 7, lines 5 and 6. Chapter 72, Article 1 NMSA 1978, Paragraph H would read:

H. In the event the interstate stream commission determines that the total Pecos river rights it has purchased with appropriations made by the legislature for that purpose are in excess of those rights permanently needed for compliance with New Mexico's obligations under the Pecos River Compact, then the commission shall offer the excess land with appurtenant water rights or rights to the delivery of water first to the original owner at the original point of diversion and for the original place and purpose of use ~~at the original purchase price~~. Lands shall be offered for sale in the order in which they were acquired by:

Synopsis of Original Bill

HAFCS Committee Substitute House Bill 417 & 225 extends the 1988 appropriation from the Irrigation Works Construction Fund (Laws 1998, Chapter 81, Sections 2, 3 and 4, Laws 1999 (1st S.S.) Chapter 2, Section 84, and Laws 2000 (2nd S.S.), Chapter 23, Section 95 to the end of fiscal year 2005 for the purpose of purchasing and retiring water rights along the Pecos river basin. The Interstate Stream Commission (ISC) shall obtain professional appraisals before any purchase.

Additional conditions were placed upon purchases.

1. The purchases are to establish a base flow of fifty cubic feet per second at the Artesia Bridge, provide a reliable annual irrigation supply of 90,000 acre-feet to the Carlsbad Irrigation District (CID) and to meet delivery requirements to Texas.
2. ISC may purchase water rights or land with appurtenant water rights; however, for pur-

chases within CID, the Pecos Valley Artesian Conservancy District and the Fort Sumner Irrigation District, the ISC may not enter into individual purchases unless they have entered into a contract with the governing bodies of those districts.

3. The first purchases shall be 6,000 acres in approximately equal purchase increments from assessed land within CID and irrigated land between Brantley Dam and Sumner Reservoir and subsequent purchases shall be at the ratio of three acres between Brantley Dam and Sumner Reservoir for each acre within CID.
4. Requests for bids shall provide for competition among the owners of land, and contain criteria on the effectiveness of the purchase in resulting in increasing river flows and to address the different value purchases based on the seniority of the right.
5. If excess rights and land are purchased as part of this program, ISC may offer these for sale and deposit the revenue in the Irrigation Works Construction Fund.

Significant Issues

The state is obligated to meet compact water delivery requirements to Texas and is under a United States Supreme Court (USSC) decree to do so since 1988. The state has been able to meet these requirements; however, it has been barely able to do. The River Master will issue an accounting by May 2002 for calendar year 2001. The state expects that they will meet the requirement but will have used all reserves accumulated since 1987 in doing so. OSE states that water depletions in the Pecos river basin must be reduced or water flow increased in order to meet the compact requirements.

OSE has requested extension of the appropriation for Pecos River purchases to help meet compact deliveries. The original appropriation was without the conditions added by this Committee Substitute Bill. However, the OSE and ISC were involved in the drafting of the bill and can support the conditions. This bill would allow implementation of an element of the consensus plan developed for compliance with the USSC decree. The current water supply in the Pecos River basin is at below-average levels, and this bill would allow actions to reduce use along the river. Approximately \$4 million dollars remains in the original appropriation.

FISCAL IMPLICATIONS

The bill extends the appropriation until the end of fiscal year 2005. Any unexpended or unencumbered balance remaining at the end of fiscal year 2005 shall revert to the Irrigation Works Construction Fund.

GAC/njw